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November 4, 2022

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*Granted.
Dunne OK
11/7/22*

VIA ECF

THE HONORABLE DENISE L. COTE, U.S.D.J.
Southern District of New York
500 Pearl St.
New York, NY 10007-1312

RE: *Richard Bossuk v. Augusta Sportswear, Inc., et al.*, Case No. 1:21-cv-08273

Dear Judge Cote:

Pursuant to Rule 7(B) of Your Honor's Individual Rules and Practices in Civil Cases, and Section 6 of the Southern District of New York Electronic Case Filing Rules & Instructions, I write on behalf of Defendants, Augusta Sportswear, Inc. ("Augusta") and Jason Livermore, to seek leave to file eight (8) exhibits under seal. Counsel for Plaintiff consent to this letter motion.

A description of the documents and reasons for sealing are briefly discussed below.

Description of Exhibits

Jason Livermore Declaration, Exhibits E & K: These exhibits are spreadsheets which contain the revenue generated by different sales representatives at Augusta, as well as information regarding the increase/decrease of sales from year-to-year. This information is pertinent as sales performance was a factor in Plaintiff's termination.

Jason Livermore Declaration, Exhibit I: This exhibit also contains revenue information for Augusta's sales representatives in its East Region. It also contains an analysis of how its acquisition of another clothing brand would affect its territory, revenue, and sales representatives.

Julie Manning Declaration, Exhibit A & B: These exhibits are spreadsheet which list Augusta's hires and terminations since 2017. Included in these spreadsheets are the dates of birth of the employees. The dates of birth of Augusta employees and sales representatives are directly relevant due to Plaintiff's age discrimination claims.

Robert Iorio Declaration, Exhibits A, B, & C: These exhibits contain revenue information for Augusta sales representatives from 2015 to 2020. Similar to Jason Livermore Declaration Exhibits E and K, this revenue information is pertinent as Plaintiff's sales performance was a factor in his termination.

Honorable Denise L. Cote
November 4, 2022
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Grounds for Sealing

Revenue Information: The revenue information in the above-mentioned exhibits is confidential, non-public business information and Augusta has a great privacy interest in it. Augusta keeps this information strictly confidential, and the disclosure of this information could harm Augusta and allow competitors to gain insight both into its business structure and its percentage of sales across various territories within the United States.

Ample authority supports the sealing of revenue information. *See e.g., Hypnotic Hats, Ltd. v. Wintermantel Enters, LLC*, 335 F. Supp. 3d 566, 600 (S.D.N.Y. 2018) (discussing how documents containing “revenue information” fall into the categories of commonly sealed documents); *see also E.E.O.C. v. Kelley Drye & Warren LLP*, No. 10 Civ 655, 2012 WL 691545, at *2 (S.D.N.Y. Mar. 2, 2012) (“Courts commonly find that documents that contain... revenue information... satisfy the sealing standard”).

Dates of Birth: Dates of birth are in the category of information that may be redacted without permission under Fed. R. Civ. P. 5.2(a)(2). But as the dates of birth and ages of Plaintiff’s colleagues are directly relevant to his claims, redaction of the dates of birth is inadequate.

Accordingly, Defendants respectfully request entry of an order granting this letter motion to seal Exhibits E, I, and K to the Declaration of Jason Livermore, Exhibit A and B to the Declaration of Julie Manning, and Exhibits A, B, and C to the Declaration of Robert Iorio.

Respectfully submitted,

/s/ Bryan A. Niemeyer

Bryan A. Niemeyer

cc: Counsel of Record (via ECF)

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